IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

WP(C).No. 34636 of 2006(W)

AGAINST THE ORDER IN IA 2102 & 2103/2006. IN OS.34/2003 of PRINCIPAL SUB COURT,KOCHI

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PETITIONER:

P.K.PRAKASAN, AGED 50,
S/O.KORU, VEZHAKKATT HOUSE, PERUMBADAPPU,
EDAKOCHI VILLAGE, KOCHI TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENT:

SAJEEVA, W/O.KUNJUMON,
EDAKATTU, PERUMBADAPPU, PALLURUTHI,
EDAKOCHI VILLAGE, KOCHI TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.34636 OF 2006

DATED THIS THE 1st DAY OF JANUARY, 2007

JUDGMENT

This petition is filed under Article 227 of Constitution of India for a direction to Sub Court, Kochi to consider Ext.P3 petition before directing delivery of the plaint schedule property. Exparte decree for specific performance of agreement for sale was passed as early as 7.11.03. Petitioner subsequently filed an application under order IX Rule 13 of Code of Civil Procedure to set aside the exparte decree after condoning the delay, on 6.9.04. Those petitions were also admittedly dismissed. The case of petitioner was that subsequently he had filed applications in December, 2005, to set aside the exparte decree and to condone the delay. Ext.P3 application was filed for an order to keep the order for delivery pending till the disposal of the application. On the facts and circumstances of this case, I do not find that petitioner is entitled to get an order in his favour in exercise of the extraordinary jurisdiction of this court under Article 227 of Constitution of India, when the exparte decree was passed in November 2003 and petition filed under Order IX Rule 13 of the Code to set aside the decree was also dismissed more than one year back and what is now pending is

another application similar to the one dismissed earlier.

Petition dismissed.

M.SASIDHARAN NAMBIAR,JUDGE

Acd